

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

FIDELITY AND DEPOSIT COMPANY

v.

TELMARK, LLC, ET AL.

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Civil No. JFM-03-266

MEMORANDUM

Defendants, have filed a motion to dismiss or for a change of venue. The motion will be treated as one to transfer under 28 U.S.C. §1404(a) and, as such, will be granted.

There are three reasons for this ruling.

First, it is not entirely clear that defendants are subject to personal jurisdiction in Maryland. It is in the public interest and the convenience of the parties to transfer the action to a district where no jurisdictional issue is presented. *See Harry and Jeanette Weinberg Foundation, Inc. v. ANB Investment Mgmt & Trust Co.*, 966 F. Supp. 389 (D. Md. 1997); *Joseph M. Coleman & Assocs., Inc. v. Colonial Metals*, 877 F. Supp. 116 (D. Md. 1995).

Second, the strong predominance of relevant witnesses in the Northern District of New York outweighs plaintiff's choice of forum.

Third, there is a practical nexus between this case and the bankruptcy case involving defendants' parent pending in the Northern District of New York. Therefore, it makes sense to have the cases proceed in the same district.

Date: April 9, 2003

/s/ \_\_\_\_\_

J. Frederick Motz  
United States District Judge